



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 7096-99

16 June 2000

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 14 June 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 4 March 1968 for four years at age 19. The record reflects that you served without incident until 6 September 1968 when you were convicted by summary court-martial of a 29 day period of unauthorized absence (UA). You were sentenced to confinement at hard labor for 25 days. However, the convening authority suspended the confinement for a period of four months.

You were reported UA on 14 September 1968 and were apprehended by civilian authorities on 8 October 1968 on charges of felony theft, failing to appear in court, bail jumping, and contempt of court. On 4 November 1968 you were convicted of the foregoing offenses and were sentenced to three to five years in prison, which was suspended. You were returned to military jurisdiction on 5 November 1968.

On 5 December 1968, you were convicted by special court-martial of a 56-day period of UA from 30 September to 5 November 1968;

stealing an automobile, valued at \$250, the property of a LCPL; and damaging property belonging to a LCPL. You were sentenced to confinement at hard labor for six months, forfeitures of \$73 per month for six months, and a bad conduct discharge. The convening authority approved the sentence but reduced the forfeitures to \$46 per month for six months. The Navy Board of Review affirmed the findings and the sentence on 28 March 1969. Thereafter, you waived your right to request restoration to duty and requested execution of the bad conduct discharge. You received the bad conduct discharge on 11 April 1969.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, low test scores, and the fact that it has been more than 31 years since you were discharged. The Board also noted your claim that you served in Vietnam for 18 months and were promoted to SGT (E-5). However, there is no evidence in the record that you were ever out of the United States while in the Marine Corps or that you were ever promoted above PVT (E-1). The Board concluded that the foregoing factors were insufficient to warrant recharacterization of your discharge given your convictions by a summary court-martial and a special court-martial, and a civil conviction in only 13 months of service. Your total lost time due to UA and military confinement was 242 days. The Board concluded that you were guilty of too much misconduct in such a short period of service to warrant recharacterization to honorable or under honorable conditions. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director